

Attorney's Docket No. B-4044 618373-3

COMBINED DECLARATION AND POWER OF ATTORNEY

(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL, CONTINUATION, OR CIP)

As a below named inventor, I hereby declare that:

TYPE OF DECLARATION

This declaration is of the following type: (check one applicable item below)

- ☒ [X] original
☐ [] design
☐ [] supplemental

NOTE: If the declaration is for an International Application being filed as a divisional, continuation or continuation-in-part application, do not check next item; check appropriate one of last three items.

- ☐ [] national stage of PCT

NOTE: If one of the following 3 items apply, then complete and also attach ADDED PAGES FOR DIVISIONAL, CONTINUATION, OR CIP.

- ☐ [] divisional
☐ [] continuation
☐ [] continuation-in-part (CIP)

INVENTORSHIP IDENTIFICATION

WARNING: If the inventors are each not the inventors of all the claims an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

TITLE OF INVENTION

"PERFORMANCE TRACKER SYSTEM"

SPECIFICATION IDENTIFICATION

the specification of which: (complete (a), (b) or (c))

- (a) ☐ [] is attached hereto.
 (b) ☒ [X] was filed on December 12, 2000 as ☒ [X] Serial No. 09/735,883
 or ☐ [] Express Mail No., as Serial No. not yet known, _____
 and was amended on _____ (if applicable).

NOTE: Amendments filed after the original papers are deposited with the PTO which contain new matter are not accorded a filing date by being referred to in the declaration. Accordingly, the amendments involved are those filed with the application papers or, in the case of a supplemental declaration, are those amendments claiming matter not encompassed in the original statement of invention or claims. See 37 CFR 1.67.

- (c) ☐ [] was described and claimed in PCT International Application No. _____
 filed on _____ as amended under PCT Article 19 (1)
 on _____ (if any).

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code Federal Regulations § 1.56.

[] In compliance with this duty there is attached an information disclosure statement 37 CFR 1.97.

PRIORITY CLAIM

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign applications(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

(complete (d) or (e))

(d) [X] no such applications have been filed.

(e) [] such applications have been filed as follows.

NOTE: Where item (c) is entered above and the International Application which designated the U.S. claimed priority check item (e), enter the details below and make the priority claim.

EARLIEST FOREIGN APPLICATION(S), IF ANY, FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN(S)) PRIOR TO THIS U.S. APPLICATION

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 USC 119
			[] YES [] NO
			[] YES [] NO
			[] YES [] NO
			[] YES [] NO
			[] YES [] NO

ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN(S)) PRIOR TO THIS U.S. APPLICATION

POWER OF ATTORNEY

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (*List name and registration number*)

Richard P. Berg, Reg. No. 28,145
Mavis S. Gallenson, Reg. No. 32,464
Kam C. Louie, Reg. No. 33,008
William C. Boling, Reg. No. 41,625
Ross A. Schmitt, Reg. No. 42,529

Victor Repkin, Reg. No. 45,039
John Palmer, Reg. No. 36,885
Peter D. Galloway, Reg. No. 27, 885
William R. Evans, Reg. No. 25, 858

(*check the following item, if applicable*)

[] Attached as part of this declaration and power of attorney is the authorization of the above-named attorney(s) to accept and follow instructions from my representative(s).

SEND CORRESPONDENCE TO:

Mavis S. Gallenson, Esq.
c/o LADAS & PARRY
5670 Wilshire Boulevard, Suite 2100
Los Angeles, California 90036-5679

DIRECT TELEPHONE CALLS TO:
(*Name and telephone number*)


Mavis S. Gallenson
(323) 934-2300

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE(S)

Full name of sole or first inventor Tim Sales

Inventor's signature 

Date X 12 APR 01 Country of Citizenship U.S.A.

Residence 22252 Avenue San Luis, Woodland Hills, California 91364 U.S.A.

Post Office Address (same as residence)

Full name of second joint inventor, if any _____

Inventor's signature _____

Date _____ Country of Citizenship _____

Residence _____

Post Office Address _____

**CHECK PROPER BOX(ES) FOR ANY OF THE FOLLOWING ADDED PAGE(S)
WHICH FORM A PART OF THIS DECLARATION**

- ☐ Signature for third and subsequent joint inventors. *Number of pages added* ____
- ☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor. *Number of pages added* _____
- ☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 CFR 1.47. *Number of pages added* *Added pages to combined declaration and power of attorney for divisional, continuation-in-part (CIP) application.*
Number of pages added _____

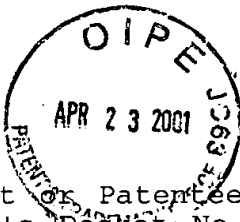
* * *

- ☐ Authorization of attorney(s) to accept and follow instructions from representative.

* * *

If no further pages form a part of this Declaration then end this Declaration with this page and check the following item.

- ☒ This declaration ends with this page.



#3

Applicant or Patentee: Tim Sales
Attorney's Docket No.: B-4044 618373-3
Serial or Patent No.: U.S. Application No. 09/735,883
Filed or Issued: FILED ON December 12, 2000
For: "PERFORMANCE TRACKER SYSTEM"

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
37 CFR 1.9(f) AND 1.27(c) - SMALL BUSINESS CONCERN**

hereby declare that I am:

- ☒ [X] the owner of the small business concern identified below:
- ☐ [] an official of the small business concern empowered to act on behalf of the concern identified below:

FULL NAME UP-STATISTICS CORPORATION

ADDRESS 22252 Avenue San Luis, Woodland Hills, California 91364 U.S.A.

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled: "PERFORMANCE TRACKER SYSTEM" by inventor(s): Tim Sales described in:

- ☐ [] the specification filed herewith.
- ☒ [X] application serial no.: 09/735,883, filed December 12, 2000.
- ☐ [] patent no. , issued .

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below*, and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a non-profit organization under 37 CFR 1.9(e). *NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

NAME: _____

ADDRESS _____

☐ [] INDIVIDUAL ☐ [] SMALL BUSINESS CONCERN ☐ [] NONPROFIT ORGANIZATION



VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
37 CFR 1.9(f) AND 1.27(c) - SMALL BUSINESS CONCERN

(PAGE 2)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. [37 CFR 1.28(b)]

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Name of Person Signing: X Tim Sales

Title of Person Other Than Owner: X

Address of Person Signing: X 22252 AVE SAN LUIS, WOODLAND HILLS, CALIFORNIA 91364

Signature: X [Signature] Date: X 12 APR 01